



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,677	12/22/2000	Gregory P. Olsen	42390P9701	1644

7590

10/20/2005

Paul A. Mendonsa  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP  
12400 Wilshire Boulevard, 7th Floor  
Los Angeles, CA 90025

EXAMINER

NGUYEN, THU HA T

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/746,677		OLSEN, GREGORY P.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Thu Ha T. Nguyen		2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims **1-18** are presented for examination.
2. Claims 1, 4, 7, 10, 13, and 16 are currently amended.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 4, 7, and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claims 1, 4, 7, and 10 amended the claimed invention by adding the limitation "varying a timing with which the second message is communicated to the respective target devices." The examiner cannot find anywhere in the specification of the invention that support this limitation. Applicant is required to point out where the newly added matter is in the specification in the reply to this Office Action.

### ***Claim Objections***

5. Claims 1, 4, 7, 10, 13, 14, 15, 16, 17, 18 are objected to because of the following informalities:

6. Claims 1, 4, 7, 10, 13, and 16 recited the limitation "the respective subsets". There is insufficient antecedent basis for this limitation in these claims. Appropriate correction is required.

7. Claim 10 recited the limitation "the first message". There is insufficient antecedent basis for this limitation in this claim. Appropriate correction is required.

8. Claim 13 recited the limitation "the subset", line 5, "the respective subsets" and "the first message", lines 7-8. There is lack of antecedent basis for this limitation in this claim. Appropriate correction is required.

9. Claims 14 and 15 recited the limitation "the message". There is lack of antecedent basis for this limitation in these claims. The examiner is confused which messages (the first message or the second message) that applicant meant. Appropriate correction is required.

10. Claim 16 recited the limitation "the first message". There is lack of antecedent basis for this limitation in this claim. Appropriate correction is required.

11. Claims 17 and 18 recited the limitation "the message". There is lack of antecedent basis for this limitation in these claims. The examiner is confused which messages (the first message or the second message) that applicant meant. Appropriate correction is required.

### **Response to Arguments**

12. Applicant's arguments filed July 28, 2005 have been fully considered but they are not persuasive because of the following reasons:

13. Applicant argues that Yuasa and Wright fail to teach or suggest at least "communicating a second message to the respective subsets of target devices and varying a timing with which the second message is communicated to the respective target devices". In response to applicant's argument, examiner maintains the rejection because Yuasa and Wright does teach the feature of communicating a second message to the respective subsets of target devices as shown in col. 9, line 31-col. 10, line 44 (i.e., communicating the first stage of announcement the time that the packet will be transmitted to the group of clients and the second stage is sending the packets at announcement time) and varying a timing with which the second message is communicated to the respective target devices as shown in col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30.

14. As a result, cited prior art does disclose a system and method for managing network, as broadly claimed by the Applicants. Applicants clearly have still failed to identify specific claim limitations that would define a clearly patentable distinction over prior art.

15. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1, 4, 7, 10, 13, and 16. Claims 2-3, 5-6, 8-9, 11-12, 14-15 and 17-18 are also rejected at least by virtue of their

Art Unit: 2155

dependency on independent claims and by other reasons set forth in this office action below. Accordingly, claims 1-18 are rejected.

### **Claim Rejections - 35 USC § 103**

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1, 4, 7, 10, 13, and 16 are rejected under 35 U.S.C. § 103(a) as being anticipated by **Yuasa et al.** (hereinafter Yuasa) U.S. Patent No. **6,085,238**, in view of **Wright et al.** (hereinafter Wright) U.S. Patent No. **6,442,598**.

18. As to claim 1, **Yuasa** teaches the invention as claimed, including a method comprising:

dividing a set of target devices to which a message is targeted into subsets of target devices, wherein a subset to which a particular device belongs is determined based on an identifier of the device and the number of subsets of target devices (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

Art Unit: 2155

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach communicating a second message to at least one of the respective subsets of target devices; and varying a timing with which the second message is communicated to the respective target devices.

**Wright** teaches communicating a second message to at least one of the respective subsets of target devices (col. 9, line 31-col. 10, line 44); and varying a timing with which the second message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

19. As to claim 4, **Yuasa** teaches the invention substantially as claimed, including an article comprising a machine-accessible medium to provide machine readable instructions that, when executed, cause one or more electronic systems to:

divide a set of target devices to which a message is targeted into subsets of target devices, wherein a subset to which a particular device belongs is determined based on an identifier of the device and the number of subsets of target devices

Art Unit: 2155

(abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach communicating a second message to at least one of the respective subsets of target devices; and varying a timing with which the second message is communicated to the respective target devices.

**Wright** teaches communicating a second message to at least one of the respective subsets of target devices (col. 9, line 31-col. 10, line 44); and varying a timing with which the second message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

20. As to claim 7, **Yuasa** teaches the invention substantially as claimed, including an electronic data signal embodied in a data communications medium shared among a plurality of network devices comprising sequences of instructions that, when executed, cause one or more electronic systems to:



Art Unit: 2155

divide a set of target devices to which a message is targeted into subsets of target devices, wherein a subset to which a particular device belongs is determined based on an identifier of the device and the number of subsets of target devices (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach communicating a second message to at least one of the respective subsets of target devices; and varying a timing with which the second message is communicated to the respective target devices.

**Wright** teaches communicating a second message to at least one of the respective subsets of target devices (col. 9, line 31-col. 10, line 44); and varying a timing with which the second message is communicated to the respective target devices (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

21. As to claim 10, **Yuasa** teaches the invention substantially as claimed, including a method comprising:

dividing a set of target devices to which a message is targeted into multiple subsets of target devices, wherein the subset to which a particular device belongs is determined based on an identifier of the device (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach communicating a second message to at least one of the respective subsets of target devices; and varying a timing with which the respective target devices response to the first message.

**Wright** teaches communicating a second message to at least one of the respective subsets of target devices (col. 9, line 31-col. 10, line 44); and varying a timing with which the respective target devices response to the first message (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

22. As to claim 13, **Yuasa** teaches the invention as claimed, including an article comprising a machine-accessible medium, to provide machine-readable instructions that, when executed, cause one or more electronic system to:

dividing a set of target devices to which a message is targeted into multiple subsets of target devices, wherein the subset to which a particular device belongs is determined based on an identifier of the device (abstract, figure 1, col. 8 lines 40-col. 10 lines 67, col. 17 lines 20-col. 18 lines 56, col. 45 lines 59-col. 48 lines 10); and

message is communicated to the respective subsets of target devices (col. 17 lines 49-54, col. 19 lines 7-col. 21 lines 51).

However, **Yuasa** does not explicitly teach varying a timing with which the respective subset of devices response to the first message; and communicating a second message to at least one of the respective subsets of target devices.

**Wright** teaches communicating a second message to at least one of the respective subsets of target devices (col. 9, line 31-col. 10, line 44); and varying a timing with which the respective subset of devices response to the first message (col. 9, lines 9-col. 10, lines 7, col. 11, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of **Yuasa and Wright** to vary a timing with which the message is communicated to the respective target devices since such methods were conventionally employed in the art to allow the system to take the advantage of fill broadcast bandwidth and to improve reliability in case of the client not being available to receive the transmissions (See Wright, col. 11, lines 1-16).

23. Claim 16 has similar limitations as claim 13; therefore, they are rejected under the same rationale.

24. Claims 2-3, 5-6, 8-9, 11-12, 14-15, and 17-18 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Yuasa** U.S. Patent No. **6,082,238**, and **Wright** U.S. Patent No. **6,442,598**, further in view of **Iwamura et al.**, (hereinafter **Iwamura**) U.S. Patent No. **6,396,814**.

25. As to claim 2, **Yuasa and Wright** do not explicitly teach the invention as claimed; however, **Iwamura** teaches wherein determining the subset of target devices to which the message is targeted comprises:

broadcasting the message over a network (figure 2, col. 13 lines 54-col. 15 lines 60);

receiving one or more responses to the message from target devices coupled to the network (figure 7, col. 1 lines 37-col. 2 lines 11);

estimating a number of devices coupled to the network (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50); and

determining a number of subgroups based, at least in part, on the estimated number of devices coupled to the network (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 6 lines 1-12, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25

Art Unit: 2155

lines 6-50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Yuasa, Wright and Iwamura** to have the determining step of target devices by broadcasting the message, receiving one or more responses, estimating a number of devices and determining a number of subgroups because it would have an efficient communications system that improves and reduces the traffic volume by dividing group into smaller group or subgroup and using broadcast method to particular subgroup.

26. As to claim 3, **Yuasa and Wright** do not explicitly teach the invention as claimed; however, **Iwamura** teaches wherein determining the subset of target devices to which the message is targeted comprises:

multicasting the message to a subnet of a network (figure 2, col. 13 lines 54-col. 15 lines 60);

receiving one or more responses to the message from target devices of the subnet (figure 7, col. 1 lines 37-col. 2 lines 11);

estimating a number of devices in the subnet (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50); and

determining a number of subgroups based, at least in part, on the estimated number of devices in the subnet (figures 1, 4, 7, col. 1 lines 37-col. 2 lines 11, col. 13 lines 54-col. 15 lines 15, col. 16 lines 63-col. 17 lines 29, col. 25 lines 6-50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the

Art Unit: 2155

invention to combine the teachings of **Yuasa, Wright and Iwamura** to have the determining step of target devices by multicasting the message, receiving one or more responses, estimating a number of devices and determining a number of subgroups because it would have an efficient communications system that improves and reduces the traffic volume by dividing group into smaller group or subgroup and using multicast method to particular subgroup.

27. Claims 5-6, 8-9, 11-12, 14-15, and 17-18 have similar limitations as claims 2-3; therefore, they are rejected under the same rationale.

### **Conclusion**

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2155

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Najjar Saleh, can be reached at (571) 272-4006.

The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BHARAT BAROT  
PRIMARY EXAMINER

Thu Ha Nguyen

October 16, 2005